

U.S. Serial No. 10/623,130  
Amendment Dated 12-22-05  
Response to 9-22-05 OA

Docket No. 740165-000353

### **REMARKS**

Claims 1-5 and 7-23 are pending. Claim 6 is canceled herein. No new matter has been introduced in this response.

In an Advisory Action dated January 17, 2006, the Examiner indicated that Applicants' response filed December 22, 2005 was not entered. Applicants herein substantially repeat the arguments and amendments submitted in the prior response, but note below Applicants' viewpoint that the claim amendments and arguments do not introduce new issues with regard to claim 1. New claim 24, submitted with Applicants' previous response, is not submitted herein. Indeed, Applicants have incorporated subject matter indicated as allowable by the Examiner into the independent claims, preferably claims 1 and 21, and respectfully submit that the claims presented herein, claims 1-5 and 7-23 are, therefore, allowable.

### **REJECTIONS**

#### **35 U.S.C. §112**

As indicated in the Office Action dated September 22, 2005, claims 1-23 were rejected under 35 U.S.C. §112, second paragraph, for indefiniteness. In particular, the Office Action finds the phrase "connecting members reliably meshes with said plurality of teeth" indefinite and vague for use of the term "reliably". Additionally, the Action finds the term "substantially" in claims 1 and 23 indefinite.

Claims 1, 11 and 21 have been amended to remove the term "reliably," thereby obviating the §112, second paragraph, rejection of these claims on this ground.

Claims 1 and 21 (not 23) have also been amended to remove the term "substantially," thereby obviating the §112, second paragraph, rejection of these claims. In particular, the terminal paragraphs of claims 1 and 21 have been amended to better accord with the language set forth in the Specification at page 35, lines 2-5, i.e., "a distance, along a direction of rotation of the input gear, between two meshing portions of the at least two connecting members is not an integer multiple of said given pitch of the plurality of teeth," as amended. Applicants respectfully submit that this amendment does not introduce "new matter" as this is a rephrasing of the original text, which the Examiner previously reviewed and searched.

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Applicants respectfully submit that claims 1-5 and 7-23 are no longer indefinite and violative of 35 U.S.C. §112, second paragraph. Reconsideration and withdrawal of the rejection is, accordingly, respectfully requested.

### **35 U.S.C. §102**

In the Final Office Action, claims 1-2 and 4-5 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,918,717 to Föhl, as previously cited against claims 1, 2, 4, 5, 11-12, 14-15, 21 and 23 in the last Office Action. Applicants thank the Examiner for withdrawing the prior §102(b) rejections of claims 11-12, 14-15, 21 and 23 over Föhl.

As noted above, claims 6-8 and 11-20 were deemed allowable. In particular, claim 6 was considered allowable over the art of record, including Föhl. As indicated hereinabove, Applicants have incorporated the limitations of claim 6 into claim 1, and canceled claim 6. In view of this amendment, Applicants respectfully request the reconsideration and withdrawal of the §102(b) rejection of claims 1-2 and 4-5 over Föhl.

### **35 U.S.C. §103**

In the Action, claims 3, 9, 10 and 21-23 stand rejected over 35 U.S.C. §103(a) as being obvious over Föhl, as described above. Applicants thank the Examiner for withdrawing the prior §103(a) rejections of claims 13, 19 and 20.

As noted above, claim 1 has been amended to incorporate the limitations of allowed claim 6, thereby obviating the §103(a) rejection of dependent claims 3, 9 and 10. Applicants respectfully request the reconsideration and withdrawal of the §103(a) rejection of claims 3, 9 and 10 over Föhl.

Additionally, Applicants have incorporated the limitations of allowed claim 6 into claim 21, thereby obviating the §103(a) rejection of claim 21 and claims 22 and 23, dependent thereon. Applicants respectfully request the withdrawal of the §103(a) rejection of claims 21-23 over Föhl.

### **DOUBLE PATENTING**

Claims 1-5 and 7-23 remain provisionally rejected for obviousness-type double patenting over claims 1-20 of co-pending U.S. Patent Application Serial No. 10/615,388.

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Although Applicants filed a Terminal Disclaimer obviating the double patenting rejection of claims 1-7, 11-17 and 21-23 over U.S. Patent No. 6,857,594 (hereinafter "the '594 patent"), limiting the term to any patent issuing from the instant application to the term of the '594 patent, Applicants did not file the requisite Terminal Disclaimer for the aforementioned co-pending application. In the Action, the Terminal Disclaimer filed by Applicants was rejected, presumably for this sole deficiency.

Applicants thank the Examiner for not requiring a further fee for submitting another Terminal Disclaimer for both the co-pending application and the '594 patent, and apologizes for any inconvenience.

Attached in Applicants' prior response and herewith is a Terminal Disclaimer limiting the term to any patent issuing from the instant application to the term of USP 6,857,594 and any patent issuing from U.S. Patent Application Serial No. 10/615,388.

In view of the submission of the second Terminal Disclaimer, Applicants respectfully submits that the provisional obviousness-type double patenting rejection of claims 1-5 and 7-23 has been overcome. Accordingly, Applicants respectfully requests the reconsideration and withdrawal of the provisional rejection of claims 1-5 and 7-23 for obviousness-type double patenting.

#### ALLOWED CLAIMS

Applicants again thank the Examiner for the indication of allowability for claims 6-8 and 11-20.

As indicated hereinabove, Applicants respectfully submit that claims 1 and 21 as amended to incorporate the allowable features of claim 6, and the pending dependent claims therefrom, *i.e.*, claims 2-5, 7-20 and 22-23, respectively, are all allowable over the art of record. Also, the remaining rejection for double patenting has been obviated due to the filing of the second Terminal Disclaimer.

Applicants therefore respectfully submit that claims 1-5 and 7-23 are allowable in view of the amendments and arguments set forth above. Applicants further respectfully submit that no new issues have been introduced that would stand in the way of allowance of the instant invention. The limitations of allowable claim 6 have been incorporated into claims 1 and 21, making these and all claim dependent thereon allowable, *i.e.*, claims 1-5 and

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7-23. Applicants respectfully submit that any other added limitations would moot further rejections. Applicants, accordingly, respectfully request that the "new matter" issue raised in the Advisory Action with regard to claim 1 be withdrawn in view of the above, and the application proceed to allowance.

Now that the claims are believed to be patentable, the prompt issuance of a Notice of Allowance and Issue Fee Due is hereby earnestly solicited.

The Commissioner is authorized to charge any overage or shortage of fees connected with filing of this Amendment to Deposit Account No. 19-2380 (740165-000353).

Respectfully submitted,



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